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In re Application of	:	OFFICE OF PETITIONS
Thaddeus Schroeder et al	:	
Application No. 10/603,462	:	DECISION ON PETITION
Filed: June 25, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DP-306034	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 4, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/356,457, as set forth in the amendment filed concurrently with the instant petition.

The petition is GRANTED.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.


All of the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. § 120 to the above-noted application is accepted as being unintentionally delayed.

A corrected Filing Receipt, which includes the priority benefit claim to the above-noted, prior-filed application, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to the undersigned at (571) 372-3218.

This matter is being referred to Technology Center Art Unit 2862 for consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 for the benefit of priority to the above-noted, prior-filed application.


Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt